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November 8, 2002

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: Petition of NSTAR Gas Company for Approval of its Load Forecast and
Resource Plan for the five-year period 2001/02 through 2005/06 pursuant
to G.L. c. 164, §§ 69 (I) *et. seq.*, D.T.E. 02-12

Dear Secretary Cottrell:

NSTAR Gas Company (“NSTAR” or the “Company”) has filed a petition (“Petition”) seeking the Department’s approval of its Load Forecast and Requirements Plan (“Supply Plan” or “Filing”) for the forecast period 2001/02 through 2005/06. The Attorney General submits this letter as his Initial Brief.¹

I. INTRODUCTION

The record establishes that NSTAR has failed to meet its design winter standard for adequate gas supplies. Without the acquisition of additional supplies, the Company will not meet its design winter standard if the design conditions occur this winter (2002/03). The Department of Telecommunications and Energy (the “Department”) should reject the Company’s proposed Supply Plan and require NSTAR to resubmit a plan which provides for adequate gas supplies.

¹ This Brief is not intended to respond to every argument made or position taken by the Company. Rather, it is intended to assist the Department’s deliberations, *i.e.*, to provide further information, to correct misstatements or misinterpretations, or to provide omitted context. Therefore, the Department should not interpret silence in regard to any particular argument, assertions of fact, or statement of position as assent, acquiescence or agreement with such argument, assertion or position.

II. STANDARD OF REVIEW

The Department is charged with the responsibility to ensure that gas companies provide an adequate supply of gas for the foreseeable needs of their firm customers. *See* G.L. c. 164, § 69I. (the Department must ensure “a necessary energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost”). In discharging this statutory duty, the Department reviews the long range forecast and supply plan of each gas company to determine if it has sufficient available supplies for firm customers during the upcoming five-year period.

In its review of a forecast, the Department determines if a projection method is reasonable based on whether the methodology is: (a) reviewable, that is, contains enough information to allow a full understanding of the forecast methodology; (b) appropriate, that is, technically suitable to the size and nature of the particular gas company; and (c) reliable, that is, provides a measure of confidence that the gas company's assumptions, judgments, and data will forecast what is most likely to occur. *Colonial Gas Company*, D.P.U. 96-18, at 4 (1996); *Bay State Gas Company*, D.P.U. 93-129, at 5 (1996); *Holyoke Gas and Electric Department*, D.P.U. 93-191, at 2 (1996); *Berkshire Gas Company*, 16 DOMSC 53, at 56 (1987). The Department examines a gas company's: (1) planning standards, including its weather data; (2) forecast method, including the forecast results; and (3) derivation and results of its design and normal send out forecasts. *See* D.P.U. 93-129, at 5-6; D.P.U. 93-13, at 6; *see also Boston Gas Company*, D.P.U. 94-109 (Phase D, at 9 (1996)). As part of the review of the forecast, the Department also examines the company's scenario analysis, which is used for evaluating the flexibility of the company's planning process, including any cold-snap analysis and sensitivity analysis. *Boston Gas Company*, 25 DOMSC 116, at 200 (1992); *see* D.P.U. 93-129, at 23-25 and D.P.U. 94-109 (Phase B, at 61-66).

III. ARGUMENT

The Department requires gas local distribution companies (“LDCs”) to show that service will not be disrupted by cold weather. The Department assesses a company's reliability and ability to serve all firm customers in cold weather by reviewing each company's planning data under normal year, design year and design day standards. *Colonial Gas Company*, D.T.E. 98-90, pp. 5-7 (2000).²

A. NSTAR HAS LOWERED ITS DESIGN YEAR STANDARDS

NSTAR bases its design year standard in this case on a probability analysis that reflects the coldest winter conditions expected once every 33 years---a 1 in 33 probability of occurrence. This is a lower standard than the Company's last approved forecast and supply plan. *Commonwealth Gas Company*, D.T.E./D.P.U. 96-117, p.31 (2000). In 96-117, the Department

² The design year, a long established planning requirement, represents the coldest year for which the company plans to provide service. *Colonial Gas Company*, DTE 98-90, fn. 11 (2000).

approved a supply plan based on a design winter standard that reflected a 1 in 50 probability of occurrence. In approving that standard, the Department noted that the Company may have been too conservative in its selection of the 1 in 50 standard and that it should review and justify the appropriateness of its design standards as part of the Company's next filing. *Commonwealth Gas Company*, DTE/DPU 96-117, p. 37.

In response to the Department's concerns, the Company has proposed a less conservative, lower standard in this case - a 1 in 33 probability of occurrence. The Company justifies the lower standard by arguing that it "has the ability to supplement its available gas resources with short-term supply arrangements originating in upstream market centers." See Exh. NGC-1-S, p. 24. This rationale conflicts with the Department's requirement that a company "... must have sufficient firm resources in place to serve its firm customer gas loads **without** relying on the uncertainties of the short-term non-firm market during periods of severe winter weather." *Colonial Gas Company*, D.T.E. 98-90, fn. 6 (2000)(emphasis added). The Department should reject NSTAR's lowered design year standard as a basis of determining whether the Company has sufficient gas resources.

B. NSTAR'S SUPPLY PLAN IS DEFICIENT

Even with the lower standard, the Company's supply plan reveals that there will be shortages in a very cold winter. The record indicates that without the acquisition of additional supplies, the Company will not be able to serve its customers' load if design winter conditions occur this year (2002/03). Exh. NGC-1-S, p. 93; Exh. AG-1-7; Tr., p. 38. According to the Company's Filing, the Company, beginning in 2002/03, will not be able to serve 28,000 MMBtus of its design winter demand. Exh NGC-1-S, p. 93. This amount grows to 397,000 MMBtu in 2005/06. *Id.* at 93.

The fact that the Company did not account for all of its customer loads in its filed forecast exacerbates the deficiency. During the evidentiary hearing, the Company's witnesses testified that the Filing did not incorporate the load of 850 new customers to be added in November of this year.³ Tr. p. 39. These new customers will increase the forecasted design winter deficiency by approximately 60,000 MMBtu, resulting in a deficiency of 90,000 MMBtu in 2002/03 and over 460,000 MMBtu in 2005/06. Although the new customers will be added to the New Bedford division, the Company's witness indicated that the Company, as a whole, would be affected by the forecasted deficiency:

the shortage shows up in our overall resources . . . for example, our LNG resources, which aren't allocated to each division. We use it on our system as a whole. So each of our divisions separately has

³ The additional customers are the result of an agreement between the Company and KeySpan Energy Delivery to transfer customers from KeySpan to NSTAR; the Department approved the transfer. *Colonial Gas Company d/b/a KeySpan Energy Delivery and NSTAR Gas Company*, D.T.E. 02-44 (2002).

sufficient capacity to meet the demand requirements; it's just that our overall LNG inventory under design conditions could run out. Tr., p. 41.

Although the Company has indicated that it is in the process of negotiating with a supplier to provide the required resources for the short term (the next 4-5 months), it has not supplemented the record with any evidence it has actually procured the necessary supplies. Tr., p. 40. The Department should require the Company to indicate on the record that it has actually procured the resources, and provide the terms under which it has remedied the deficiency.⁴

III. CONCLUSION

The Department should not approve the Company's plan. The record establishes the imminent potential for the occurrence of a design winter deficiency this winter. The Department should order NSTAR to resolve the deficiency immediately and re-file all documents showing a resolution of the deficiency, taking into account the demand requirements of all customers, and a resolution that will result in the most reliable and least cost service to all NSTAR Gas customers.

Very truly yours,

Wilner Borgella, Jr.
Assistant Attorney General

WB/wb

cc: Denise Desautels, Hearing Officer (w/enc.)
Service List (w/enc.)

⁴ If the Company enters into an agreement for the necessary resource for a period of less than one year, the Department's approval is not required. There would, therefore, be no review of the terms of the agreement and no opportunity to determine whether the agreement represented the least cost solution to the plan's deficiency. See G.L. c. 164, § 94A.